

**Filed 3/24/15 by Clerk of Supreme Court**  
**IN THE SUPREME COURT**  
**STATE OF NORTH DAKOTA**

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2015 ND 55

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Wayne James Otto, Petitioner and Appellant

v.

State of North Dakota, Respondent and Appellee

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No. 20140400

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Appeal from the District Court of Burleigh County, South Central Judicial District, the Honorable Sonna M. Anderson, Judge.

AFFIRMED.

Per Curiam.

Lee M. Grossman, 341 Central Avenue North, Suite 3, P.O. Box 475, Valley City, ND 58072, for petitioner and appellant; submitted on brief.

Dawn M. Deitz, Assistant State's Attorney, 514 East Thayer Avenue, Bismarck, N.D. 58501, for respondent and appellee; submitted on brief.

**Otto v. State**  
**No. 20140400**

**Per Curiam.**

[¶1] Wayne Otto appeals from a district court order denying him post-conviction relief. He argues the district court erred in summarily dismissing his application for post-conviction relief, because the court did not give all reasonable inferences in regard to his claim of ineffective assistance of counsel. He also argues the district court erred by failing to hold an evidentiary hearing to further develop his claims regarding the alleged drug dog investigation. We summarily affirm under N.D.R.App.P. 35.1(a)(6) and (7). See Ude v. State, 2009 ND 71, ¶ 12, 764 N.W.2d 419 (a petitioner is not entitled to an evidentiary hearing on his application for post-conviction relief if he fails to provide any competent evidence to raise a genuine issue of material fact); Dunn v. State, 2006 ND 26, ¶ 12, 709 N.W.2d 1 (if a petitioner fails to raise a genuine issue of material fact, summary disposition will be appropriate).

[¶2] Gerald W. VandeWalle, C.J.  
Dale V. Sandstrom  
Daniel J. Crothers  
Lisa Fair McEvers  
Carol Ronning Kapsner